



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

June 8, 1939

Honorable Emory N. Spencer  
County Attorney  
Aransas County  
Rockport, Texas

Dear Sir:

Opinion No. O-910

Re: What is meant by "within the limits or within one mile of the limits of any city"; and what constitutes "the buoys, stakes or other marks" that will put the public sufficiently on notice and will amount to compliance with the statute?

We are in receipt of your opinion request wherein you propound the following questions:

- "1. What is meant by 'within the limits or within one mile of the limits of any city'.
- "2. What constitutes 'the buoys, stakes or other marks' that will put the public sufficiently on notice, and will amount to a compliance with the statute."

Article 947 of the Revised Penal Statutes of Texas, 1925, provides as follows:

"It shall be unlawful for any person to catch or attempt to catch any fish, green turtle, loggerhead, terrapin or shrimp in any of the bays or navigable waters of this State, within the limits or within one mile of the limits of any

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city or town in this State, with seines, drags, fykes, set nets, trammel nets, traps, dams or weirs. A town or city in the meaning of this article shall be the collection of one hundred families within an area of one square mile. Anyone violating any provision of this article shall be fined not less than twenty-five nor more than two hundred dollars. In all prosecutions the identification of the boat from which such violation occurs shall be prima facie evidence against the owner, lessee, person in charge or master of such boat. It shall be the duty of such town to establish and maintain the buoys, stakes or other marks designating the limits of the one mile within which such seines shall be hauled and such nets set."

In answer to your first question it is the opinion of this department, and you may be so advised, that the phrase "within the limits or within one mile of the limits of any city or town in this State" means within a mile of the territorial limits of any incorporated city or town, as prescribed in the city charter of said city or town; and in the event that there is any navigable water within the limits, as designated by the city charter of such incorporated city or town, then in that event it shall be unlawful, under the provisions of this statute, to seine, etc.,.... in or upon such navigable water so enclosed within the limits of said incorporated city or town. In the event that the town or city, in the meaning of this article, is an unincorporated city or town, and is made a city or town within the meaning of this article by the definition therein set out; then, and in that event, it is the opinion of this department that the statute means within one mile of the territorial limits of said city or town, which would mean one mile in any direction from the shoreline of the area which composes the city or town in question.

In answer to your second question, it is our opinion that the statute comprehends that buoys shall be placed at various intervals along the shoreline at a distance of one mile from the limits of the city or town in such a manner and at close enough intervals that same will advise the public generally of the limits as are prescribed in this statute. As to what will constitute sufficient buoys that

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will put the public on notice, it is our opinion that any buoy of a standard type, kind, character or make ordinarily used for such purposes can be used for this purpose. We do not believe that the statute contemplates that any particular type, kind, character or nature of buoy shall be used, but only that a buoy, which can be recognized as such, shall be placed at various intervals, at the required spacing distances, in order that same shall be a warning and notice to the public that within the limits of said buoy there shall be no seining, etc.....

Trusting that this will sufficiently answer your questions in the premises, we remain

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

*Edgar Gale*  
Edgar Gale  
Assistant

EC:FL

APPROVED:

*George C. Mann*  
ATTORNEY GENERAL OF TEXAS

